

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NINTENDO OF AMERICA INC.,

Plaintiff,

V.

DOES 1-20, d/b/a, ANXCHIP.COM,
AXIOGAME.COM, FLASHCARDA.COM,
MOD3DSCARDS.COM, NX-CARD.COM,
SXFLASHCARD.COM, TXSWITCH.COM,
and USACHIPSS.COM,

Defendants.

No. 2:20-cv-00738-TSZ

[PROPOSED] FINAL JUDGMENT
AND PERMANENT INJUNCTION

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PERMANENT INJUNCTION
No. 2:20-cv-00738

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1 **[PROPOSED] FINAL JUDGMENT AND PERMANENT INJUNCTION**

2

3 The Clerk of this Court, having previously entered a default against Defendants Does 1–
 4 20, d/b/a ANXCHIP.COM, AXIOGAME.COM, FLASHCARDA.COM,
 5 MOD3DSCARDS.COM, NX-CARD.COM, SXFLASHCARD.COM, TXSWITCH.COM, and
 6 USACHIPSS.COM (the “Websites”),¹ Dkt. 24, and this matter having come before the Court on
 7 Plaintiff Nintendo of America Inc.’s Motion for Entry of Default Judgment and Entry of a
 8 Permanent Injunction (“Motion”), Dkt. 25, the Court finds that the Motion is well taken and
 9 should be granted.

10

11 Therefore, pursuant to Sections 502 and 1203 of the Copyright Act (17 U.S.C. §§ 502,
 12 1203), the All Writs Act, 28 U.S.C. § 1651, and this Court’s inherent equitable powers, the Court
 13 orders as follows:

14

15 1. A permanent injunction is entered against Defendants enjoining them and their
 16 agents, servants, employees, successors, assigns, and all those acting under their control from:

17

18 a. Offering to the public, selling, providing, or otherwise trafficking in any
 19 circumvention devices—including but not limited to the SX Pro, SX Core, and SX Lite—
 20 accompanying SX OS software, and any other circumvention devices or software that target
 21 Nintendo or Nintendo’s consoles, Nintendo’s technological protection measures, and/or
 22 copyrighted works;

23

24 b. Directly or indirectly infringing, or causing, enabling, facilitating,
 25 encouraging, promoting, and inducing or participating in the infringement of, any of Nintendo’s
 26

27 1 Reference to Defendants or the domain names/URLs in the caption above should be read to encompass both the
 28 original URLs and any and all new URLs under which Defendants do or will do business. Following the initiation
 29 of this case, ANXCHIP.COM became LOWBR.COM, FLASHCARDA.COM became MATERPL.COM,
 30 MOD3DSCARDS.COM became BRUJOON.COM, and NXCARD.COM became AGRESU.COM.

1 copyrights protected by the Copyright Act, whether now in existence or hereafter created;

2
3 c. Effecting assignments or transfers, including of the Websites, forming
4 new entities or associations, or using any other device for the purpose of circumventing or
5 otherwise avoiding the prohibitions set forth in Subparagraphs a or b; and/or
6

7 d. Unfairly competing with Nintendo.
8

9
10 2. The Court further enjoins Defendants and all third parties acting in active concert
11 and participation with Defendants—including but not limited to any domain name registrars or
12 registries holding or listing any of Defendants' websites—from supporting or facilitating access
13 to any or all domain names, URLs, websites (including, without limitation, ANXCHIP.COM,
14 AXIOGAME.COM, FLASHCARDA.COM, MOD3DSCARDS.COM, NX-CARD.COM,
15 SXFLASHCARD.COM, TXSWITCH.COM, USACHIPSS.COM, LOWBR.COM,
16 MATERPL.COM, BRUJOON.COM, and AGRESU.COM), as well as any successor websites,
17 private communications channels, direct messages, chatrooms, other social media websites or
18 apps such as Skype, Discord, or Facebook and any online marketplace platforms such as
19 AliExpress, through which Defendants traffic in circumvention devices that threaten Plaintiff's
20 technological protection measures or that infringe Plaintiff's rights under the Copyright Act.
21
22

23 3. Defendants are further prohibited from engaging in any other violation of the
24 DMCA or Copyright Act, or any other federal or state law, as respects Nintendo.
25

26 4. The Court further orders that Defendants and their officers, agents, servants,
27 employees, attorneys, and others acting in active concert and participation with Defendants,
28 including but not limited to any domain name registrars or registries holding or listing any of
29 Defendants' websites:
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32 a. surrender, and cease to use, the domain names ANXCHIP.COM,
33
34

1 AXIOGAME.COM, FLASHCARDA.COM, MOD3DSCARDS.COM, NX-CARD.COM,
 2 SXFLASHCARD.COM, TXSWITCH.COM, USACHIPSS.COM, LOWBR.COM,
 3 MATERPL.COM, BRUJOON.COM, and AGRESU.COM, and any variant or successor thereof
 4 controlled by Defendants; and

5 b. immediately transfer the domain names ANXCHIP.COM,
 6 AXIOGAME.COM, FLASHCARDA.COM, MOD3DSCARDS.COM, NX-CARD.COM,
 7 SXFLASHCARD.COM, TXSWITCH.COM, USACHIPSS.COM, LOWBR.COM,
 8 MATERPL.COM, BRUJOON.COM, and AGRESU.COM, and any variant or successor thereof
 9 controlled by Defendants, to Plaintiff's control.

10 5. The Court further enjoins Defendants and all third parties acting in active concert
 11 and participation with Defendants—including but not limited to any domain name registrars or
 12 registries holding or listing any of Defendants' websites—from supporting or facilitating access
 13 to any or all domain names, URLs, and websites (including, without limitation,
 14 ANXCHIP.COM, AXIOGAME.COM, FLASHCARDA.COM, MOD3DSCARDS.COM, NX-
 15 CARD.COM, SXFLASHCARD.COM, TXSWITCH.COM, USACHIPSS.COM,
 16 LOWBR.COM, MATERPL.COM, BRUJOON.COM, and AGRESU.COM), or any variant or
 17 successor thereof, through which Defendants infringe Plaintiff's copyrights.

18 6. The Court further orders, pursuant to 17 U.S.C. §§ 503 & 1203, the seizure,
 19 impoundment, and destruction of all Circumvention Devices, all copies of SX OS, and all other
 20 electronic material or physical devices within Defendants' custody, possession, or control—
 21 including any hard drives or other electronic storage devices containing such material—that
 22 violate Nintendo's rights under the DMCA or infringe upon copyrights owned or exclusively
 23 licensed by Nintendo.

1 7. Finally, the Court orders Defendants, within thirty (30) days after service of
 2 judgment with notice of entry thereof, to file with the Court and serve upon Nintendo a written
 3 report under oath setting forth in detail the manner in which Defendants have complied with the
 4 preceding paragraphs of this order.
 5

6 Nintendo may serve this judgment electronically on Defendants by sending it to the same
 7 email addresses listed in this Court's order authorizing service of process electronically. Order
 8 Granting Plaintiff's Motion for Leave To Serve Process by Alternative Means, Dkt. No. 20.
 9

10 This permanent injunction constitutes a binding court order, and any violations by
 11 Defendants subject them to the full scope of this Court's contempt authority, including punitive,
 12 coercive, and monetary sanctions. The Court shall maintain continuing jurisdiction over this
 13 action for the purpose of enforcing this Final Judgment and Permanent Injunction. Plaintiff is
 14 not required to post any bond or security in connection with this Stipulated Order and Permanent
 15 Injunction, and Defendants have permanently, irrevocably, and fully waived any right to request
 16 a bond or security.
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18 With no additional remaining claims to adjudicate in this matter, the Court enters this
 19 judgment as a Final Judgment.
 20

21 **IT IS SO ORDERED.**
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23 _____
 24 The Honorable Thomas S. Zilly
 25 United States District Court Judge
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